IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION Nos 8105, 8440, 8441, 8895, 8215, 8117, 9376, 8651, 8889, 9198, 9227 and 9389 of 2000

For Approval and Signature:

Hon'ble Mr.Justice D.H.WAGHELA,J.

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SHIKARI RANJIT SHRIRAJ

Versus

MUNICIPAL COMMISSIONER

Appearance:

1. Special Civil Application Nos. 8105, 8440, 8441, 8895, 8215, 8117, 9376, 8651 and 8889 of 2000
   MR AM RAVAL for Petitioners
   MR KIRIT I PATEL for Respondent No. 1, 2

2. Special Civil ApplicationNo 9198 of 2000
   MR AH SHAH for Petitioner
   Special Civil Application No.9389 of 2000
   MS SANGITA N PAHWA for Petitioner
   MR KIRIT I PATEL for Respondent No. 1, 2.

CORAM : MR.JUSTICE D.H.WAGHELA

Date of decision: 10/10/2000

COMMON ORAL JUDGEMENT

#. Heard the Learned Counsel Mr.A.M.Raval, Ms S.N.Pahva and Mr.A.H.Shah, for the petitioners and Mr.K.I.Patel, for the respondent.

#. Rule in each petition and service of the same is waived by Learned Counsel for the respondents no.1 and 2. By consent all the petitions are heard and disposed together by this common judgment.

#. There is consensus about the common fact that all the petitioners in these petitions have worked under the respondent as Supervisors on daily wage basis over long periods of time. It is contended on behalf of the petitioners that most of the petitioners have either already completed 5 years of such service or are on the verge of completing such service. It is also submitted that such petitioners have, in any case completed or almost completed 900 days of service under the respondent. On this basis, it is submitted that the services of the petitioners were liable to be regularised on application of the policy adopted by the respondent after the award of the Industrial Tribunal in Ref. (IT) No.179/75. On this premises the petitioners have prayed that the respondent should not be permitted to terminate the services of the petitioners and the respondents were required to be ordered to regularise the service of the petitioners on regular pay scale.

#. On the other hand, it is submitted on behalf of the respondent that the petitioners are no longer in the service of the respondent and even when they were employed, they were employed on daily wage basis to meet the temporary requirements of work. It is submitted that the petitioners have never been employed after under going the due process of selection and their services have been intermittent. It is also submitted that the respondent Corporation having no work for the petitioners, it was constrained to discontinue the employment of temporary daily wagers and that the policy of regularisation after 5 years' continuous service and working for 900 or more days within that period did not apply to the petitioners.

#. In this set of circumstances, it was vehemently argued on behalf of the petitioners that their rights to the employment and regularisation would become illusory and by the time they may approach the appropriate forum for redressal of their grievances, the regular posts of Supervisors may be filled up by the respondent leaving no vacancies for absorption or regularisation of the services of the petitioners. The Learned Counsel for the

respondent has, however, fairly conceded that the respondent Corporation does not propose to replace the petitioners by any fresh recruitment except in accordance with its own recruitment rules and if such regular recruitment were to be undertaken, the petitioners shall have full opportunity to be the candidate for selection. In the meantime, the petitioners will be at liberty to raise an industrial dispute and seek appropriate relief upon the dispute being referred. For the intervening period upto 31st March, 2001 till which date the posts of temporary Supervisors are sanctioned, the respondent shall employ and engage as daily rated casual Supervisor the petitioners for such work as may be available and for such periods as it may decide, according to the statement made on behalf of the respondent. It is, however, clarified by the Learned Counsel Mr.Patel that this statement for and by way of a temporary arrangement shall not preclude the respondent Corporation from making regular appointment on the post of Supervisors after following the recruitment procedure for regular selection and appointment. It is further clarified that the respondent shall be at liberty to make appointment on the post of Supervisors on the compassionate ground strictly in accordance with the existing policy of the Corporation and not otherwise. It is further stated that the workmen from amongst the petitioners shall be given employment in accordance with the statement as above, in order of their seniority in terms of number of days that they have worked during the period of last 5 years in the category of Supervisors and this arrangement shall also be subject to any judicial orders relating to this matter that may be passed in any other case or cases.

#. The Learned Counsel for the petitioners submit that their disputes and demands as regards the seniority, continuity of service, service conditions and regularisation will be taken up and agitated before the appropriate forum and the petitioners shall report for work in accordance with the arrangement mentioned above, without prejudice to their rights and contentions in such other proceedings as the petitioners may resort to. Accordingly, the respondent Corporation shall abide by the statement and the petitioners shall be employed accordingly.

#. The consent having been expressed to the order as above on behalf of the petitioners, the petitions are partly allowed and stand disposed with no order as to cost. Rule made absolute accordingly. Interim relief, if any, operating in any of the petitions stands vacated.

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